

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

LINDA MICHAEL,)	
)	
Plaintiff,)	
)	
-vs-)	Case No. CIV-10-1064-F
)	
MILLICENT NEWTON-EMBRY,)	
WARDEN, et al.,)	
)	
Defendants.)	

ORDER

On May 24, 2011, United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation Regarding the Claims Against Mr. Mike Murry, wherein he recommended that all of the claims of plaintiff, Linda Michael, against defendant, Mike Murry, be dismissed without prejudice pursuant to Rule 4(m), Fed. R. Civ. P., based upon plaintiff's failure to timely serve defendant with plaintiff's amended complaint. Judge Bacharach advised plaintiff of her right to object to the Report and Recommendation by June 10, 2011.

On June 3, 2011, plaintiff filed an objection to the Report and Recommendation. Plaintiff states that the objection is to preserve the issue for trial or an appellate *de novo* review.

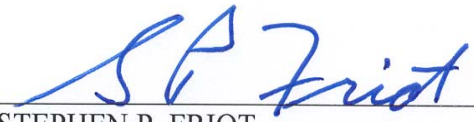
The court has conducted a *de novo* review of the matter in accordance with 28 U.S.C. § 636(b)(1). Having done so, the court concurs with the recommendation of Judge Bacharach. As noted by Judge Bacharach, plaintiff, although appearing *pro se*, is obligated to follow the requirements of Rule 4. Plaintiff advised Judge Bacharach

that she could not locate defendant Murry but “no longer require[d] an extension of time.” Plaintiff[’s] Notice Fed. R. Civ. P. 4(l) Proof of Service (doc. no. 28). Plaintiff also indicates in her objection that an extension would be an act of futility as she has no method to find defendant Murry.

Because the 120 days have passed and plaintiff disavowed any need for more time, the court finds that dismissal of plaintiff’s action against defendant Murry under Rule 4(m), Fed. R. Civ. P., is appropriate.

Accordingly, the Report and Recommendation of Magistrate Judge Robert E. Bacharach issued May 24, 2011 (doc. no. 57) is **ACCEPTED, ADOPTED** and **AFFIRMED**. Plaintiff’s action against defendant, Mike Murry, is **DISMISSED WITH PREJUDICE** pursuant to Rule 4(m), Fed. R. Civ. P.

DATED June 7, 2011.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE